

Application Serial No. 10/629,208

### REMARKS

Reconsideration is requested in view of the above amendments and the following remarks. Claims 1, 12, 19, 21, 22 and 24 are amended. The amendments are supported by the original disclosure, for example claim 18, paragraphs [0044-0045] and [0132], and Figures 2 and 5. Claim 18 is canceled as a result of the amendment to claim 1. Claims 11 and 16 are withdrawn from consideration. Claims 1-8, 10-17 and 19-24 are pending.

Claims 1, 6, 8, 10, 12, 13, 19-21 and 24 are rejected under 35 USC 103(a) as being unpatentable over Infante (WO 97/09223) in view of Seider (US 2435021).

In addition, claims 2-5, 7, 14, 15 and 18 are rejected under 35 USC 103(a) as being unpatentable over Infante, Seider and Ethier (US 4662468).

In addition, claims 14, 15 and 17 are rejected under 35 USC 103(a) as being unpatentable over Infante, Seider and Saiki (US 4804221).

In addition, claims 22 and 23 are rejected under 35 USC 103(a) as being unpatentable over Infante, Seider and Kurata (US 4606429).

#### Claims 1-7, 10, 12-15, and 17-20

Claim 1 has been amended to recite that the engine is disposed underneath the rear passenger seat and below the straight line. The word "underneath" is defined by Merriam-Webster's Online dictionary ([www.m-w.com](http://www.m-w.com)) as "directly beneath". The word "beneath" is defined as "directly under". Therefore, the word "underneath" clearly requires that the engine be directly under the rear seat.

Infante and Seider do not teach a vehicle with an engine that is underneath the rear passenger seat. The rejection refers to the motor 9 shown in Figure 3 of Infante. The motor 9 is not underneath the seat 21' or the seat 21''. Seider discloses a motor (b) that is forward of the driver's seat 145. The motor (b) is not underneath the seat 145 or the rear seat (a).

Further, Infante does not teach the engine being below the straight line. The motor 9 in Infante is above a straight line that connects uppermost points of the front and rear wheels.

In addition, claim 1 recites that the driver's seat and the rear passenger seat cooperate with each other to provide a single seat, and the backrest is positioned at an

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intermediate part of the single seat. This feature is not disclosed in Infante and Seider.

The seats 21, 21', 21'' in Infante are spaced from each other and do not form a single seat. Likewise, the seats 145, (a) in Seider are spaced from each other and do not form a single seat. A single seat is said to be disclosed in Ethier. However, Ethier does not teach or suggest that a backrest be positioned at an intermediate part of the single seat. Column 4, lines 40-44 of Ethier mention a backrest. However, the backrest could be a backrest for the rear seat. This portion of the Ethier disclosure does not indicate that the backrest should be positioned at an intermediate part of the single seat.

For at least these reasons, claim 1 is patentable over Infante and Seider. Claims 2-7, 10, 12-15 and 17-20 depend from claim 1 and are patentable therewith and need not be separately distinguished.

#### Claims 21 and 22-23

Applicants respectfully submit that claims 21 and 22 are patentable over Infante and Seider as neither reference teaches or suggests the driver's seat and the rear passenger seat cooperating with each other to provide a single seat, and the backrest is positioned at an intermediate part of the single seat.

The seats 21, 21', 21'' in Infante are spaced from each other and do not form a single seat. Likewise, the seats 145, (a) in Seider are spaced from each other and do not form a single seat. A single seat is said to be disclosed in Ethier. However, Ethier does not teach or suggest that a backrest be positioned at an intermediate part of the single seat. Column 4, lines 40-44 of Ethier mention a backrest. However, the backrest could be a backrest for the rear seat. This portion of the Ethier disclosure does not indicate that the backrest should be positioned at an intermediate part of the single seat.

In addition, Infante and Seider do not teach or suggest the following claimed features: a) the width is substantially half the overall length; and b) the driver's seat is disposed at substantially the same level as the straight line, such that in side view, more of the driver's seat is located below the straight line than above it so long as some of the driver's seat is located above the straight line.

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In rejecting feature a), the rejection indicates that Infante discloses that the vehicle can utilize a wider chassis, and concludes therefrom that it would have been obvious to one having ordinary skill in the art to produce a vehicle that meets this limitation. With all due respect, this conclusion is simply not supported from the Infante disclosure. As recognized by the Examiner, there are many widths that could be used. However, where is the teaching or suggestion that the particular claimed relationship is the one that would ultimately be used? The disclosure of Infante referenced in the rejection (page 7, claim 9) indicates that the lateral inclination system can be applied to vehicles with a wider chassis, such as cars. Presumably then, when applied to a car, the person of ordinary skill in the art would increase both the length and width of the vehicle shown in the Infante disclosure to make such dimensions consistent with a car. There has been no showing as to why a car necessarily has the claimed relationship of width and length.

As indicated by the Examiner, there are many combinations of widths and lengths that could be used. Yet there is no teaching or suggestion as to why the particular claimed width and length relationship would be the one chosen by someone of ordinary skill in the art. Absent such a teaching or suggestion, it can only be concluded that the Examiner is relying on impermissible hindsight to justify the rejection.

In rejecting feature b), the rejection indicates that one of the most common modifications to a four-wheeled vehicle is to replace the stock wheels with larger wheels, that Infante could accommodate larger wheels, and that inspection of Figure 3 appears to show that use of a larger wheel size would locate the driver's seat at the position claimed. These assumptions and conclusions are simply not supported by Infante.

Infante describes his vehicle as a motor-bike. Applicants request that the Examiner provide evidence supporting a conclusion that using larger wheels on a motor-bike is "one of the most common modifications". Further, for all we know from Infante, the vehicle is shown with larger wheels instead of stock wheels. Since the Infante vehicle is anything but conventional, one could reasonably conclude that non-stock wheels are also used along with the other non-stock construction features. As the Examiner will likely point out, Infante does not mention anything about larger or non-stock wheels. However, nor does Infante mention anything about the wheels being stock, regular sized, small sized or for that matter any sized. Therefore, to make assumptions about the

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wheels in Infante (i.e. that they are stock wheels that someone would want to replace with bigger wheels) cannot be supported.

Further, even if larger wheels are used on Infante, there is no teaching or suggestion of using larger wheels that are big enough to meet feature b). Applicants respectfully submit that one larger wheel size could be used where the straight line through the uppermost points of the front and rear wheels is coextensive with the bottom line denoting the bottommost surface of the front seat 21. Yet this larger wheel size that the person of ordinary skill in the art would allegedly want to use would not meet feature b). Likewise, there are other larger wheel sizes that could be used that would not meet feature b).

Given that there are larger wheel sizes that could be used that would not meet feature b), where is the teaching or support for concluding that a person of ordinary skill in the art would use a wheel of such size so that the driver's seat is disposed at substantially the same level as the straight line, such that in side view, more of the driver's seat is located below the straight line than above it so long as some of the driver's seat is located above the straight line? There is no such teaching or support, and the Examiner is clearly relying on impermissible hindsight to arrive at this feature.

For at least these reasons, claims 21 and 22 are patentable over Infante and Seider. Claim 23 depends from claim 22 and is patentable therewith and need not be separately distinguished.

#### Claim 24

Claim 24 has been amended to recite that the engine is disposed underneath the rear passenger seat and below the straight line. The word "underneath" is defined by Merriam-Webster's Online dictionary ([www.m-w.com](http://www.m-w.com)) as "directly beneath". The word "beneath" is defined as "directly under". Therefore, the word "underneath" clearly requires that the engine be directly under the rear seat.

Infante and Seider do not teach a vehicle with an engine that is underneath the rear passenger seat. The rejection refers to the motor 9 shown in Figure 3 of Infante. The motor 9 is not underneath the seat 21' or the seat 21''. Seider discloses a motor (b) that is

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forward of the driver's seat 145. The motor (b) is not underneath the seat 145 or the rear seat (a).

Further, Infante does not teach the engine being below the straight line. The motor 9 in Infante is above a straight line that connects uppermost points of the front and rear wheels.

In addition, claim 24 recites the following features: a) the width is substantially half the overall length; and b) the driver's seat is disposed at substantially the same level as the straight line, such that in side view, more of the driver's seat is located below the straight line than above it so long as some of the driver's seat is located above the straight line.

Features a) and b) are not taught or suggested by Infante and Seider for the reasons discussed above for claims 21 and 22. The Examiner is referred to the reasons discussed above.

For at least these reasons, claim 24 is patentable over Infante and Seider.

In view of the above, early issuance of a notice of allowance is solicited. Any questions regarding this communication can be directed to the undersigned attorney, Curtis B. Hamre, Reg. No. 29,165 at (612) 455-3802.

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Dated: January 22, 2008

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